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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,993	12/28/1999	MITSUYA SATO	684.2948	9453

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NEW YORK, NY 10112

EXAMINER
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BROWN, KHALED

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/472,993

Applicant(s)

SATO, MITSUYA

Examiner

Khaled Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-8,10,11,15 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-8,10,11,22-27 and 29-32 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,15,18-21 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 14 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 5-14-03 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,5,15, 18,19-21 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishi et al (US 5591958).

Re clms 1,19: Nishi et al discloses a scan exposure apparatus (Fig 1) comprising: a photodetector (46), a storing means (22a), and a correction device (25).

Re clm 2: correction information (Col 11 lines 26-28)

Re clm 5: a first photodetector (46), disposed at a position optically conjugate with the original (12), for detecting information regarding the original and for producing an output; a second photodetector (54) for detecting reflection light from the original and for producing an output; storing means (22a) for storing correction information with respect to the output of said first photodetector in relation to different positions of the original (as the reticle 12 is scanned thru the illumination slit different positions are illuminated), on

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the basis of the outputs of said first and second photodetectors; and a correction device (25) for receiving the correction information stored in said storing means and for correcting, in the lithographic pattern transfer, the output of said first photodetector by use of the correction information (The voltage applied to the light source 23 is varied to increase or decrease exposure and this causes a change in the output that comes from photodetector 46).

Re clms 15, 18,21,28: reflection from the substrate (Col 11 lines 33-34)

Re clm 20: correction information concerns information corresponding to a light quantity of reflection light at each of different positions of the original (reticle 12) illuminated with exposure light (as the reticle 12 is scanned thru the illumination area 52 different positions are illuminated and reflect light).

***Allowable Subject Matter***

Claims 6-8, 10, 11, 22-27, 29-32 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art of record fails to disclose or suggest a **correcting means** or **calculating means for ....** while excluding influence of a reflection light component in conjunction with the rest of the claimed subject matter.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Note: No IDS has been filed after the first IDS filed 4-19-00 p. 4

### ***Response to Arguments***

Applicant's arguments filed 5-14-03 have been fully considered but they are not persuasive. The applicant argues that the feature of the calculating means or the correction means performing operation while excluding influence of a reflection light component has been added to claims 1,2,5,15,18-21 and 28 and thus makes these claims allowable (Response filed 5-14-03 p. 15 lines 10-17). However, these features have been added as intended uses only.

In response to applicant's argument that claims 1,2,5,15,18-21 and 28 contain the limitations mentioned immediately above and should be allowable, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 703-306-5738. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 703-308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

KB  
May 23, 2003



Frank Font

Supervisor Art Unit 2877